



FH  
[REDACTED]

**STATE OF WISCONSIN**  
**Division of Hearings and Appeals**

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED] DECISION

BCS/152830

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**PRELIMINARY RECITALS**

Pursuant to a petition filed October 16, 2013, under Wis. Stat. § 49.45(5)(a), to review a decision by the Ozaukee County Department of Social Services in regard to Medical Assistance, a hearing was held on November 07, 2013, at Port Washington, Wisconsin.

The issue for determination is whether the agency properly changed the BC+ benefits for the Petitioner's son.

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]

Respondent:

Department of Health Services  
1 West Wilson Street  
Madison, Wisconsin 53703

By: Pahoua Vang

Ozaukee County Department of Social Services  
121 W. Main Street  
PO Box 994  
Port Washington, WI 53074-0994

**ADMINISTRATIVE LAW JUDGE:**

Debra Bursinger  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Ozaukee County.
2. On July 25, 2013, the Petitioner completed a renewal for BC+ benefits via online access renewal.

3. On August 2, 2013, the agency issued a Notice of Proof Needed to the Petitioner requesting verification of employment and insurance, due August 12, 2013.
4. On August 12, 2013, the agency issued a notice to the Petitioner informing him that his renewal must be completed by September 30, 2013.
5. On August 15, 2013, the agency pended the Petitioner's son's eligibility for verification of insurance due August 26, 2013. The agency issued a notice on August 16, 2013 to the Petitioner informing him that the agency was verifying insurance information and no action was needed.
6. On August 19, 2013, the agency issued a Notice of Decision to the Petitioner informing him that, effective September 1, 2013, his BC+ benefits for the household members would end due to failure to provide verifications and income over the program limit.
7. On August 21, 2013, the Petitioner contacted the agency to inquire about the numerous notices he had received. He was informed that his case is pending verification for insurance and a premium notice would be mailed once the verification was received.
8. On August 28, 2013, the agency issued a Notice of Decision to the Petitioner informing him that his son was enrolled in BC+ Benchmark Plan effective September 1, 2013 with a \$44/month premium.
9. On October 16, 2013, the Petitioner filed an appeal with the Division of Hearings and Appeals.

### **DISCUSSION**

The agency must give timely and adequate notice to a recipient or applicant of "any action affecting eligibility or receipt of benefits." Income Maintenance Manual (IMM) § 3.2.2. Timely and adequate notice requires at least 10 days' notice before the effective date of any adverse action. IMM §3.2.3.

In this case, the agency's decision to change the Petitioner's son's coverage from BC+ Standard to BC+ Benchmark is clearly an action affecting eligibility or receipt of benefits. It is also an "adverse" action in that it reduces the coverage available to the Petitioner's son. Therefore, the Petitioner was required to have at least 10 days' notice of the action.

### **CONCLUSIONS OF LAW**

The agency did not provide adequate and timely notice to the Petitioner of the change in his son's BC+ benefits.

**THEREFORE, it is**

### **ORDERED**

That this matter is remanded to the agency to revise its BC+ benefit determination for Petitioner's son to indicate that he is eligible for BC+ Benchmark plan effective October 1, 2013 and that he remains eligible for BC+ Standard Plan through September 30, 2013. This action shall be taken as soon as possible but no later than 10 days from the date of this decision.

### **REQUEST FOR A REHEARING**

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found at your local library or courthouse.

### **APPEAL TO COURT**

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be served and filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

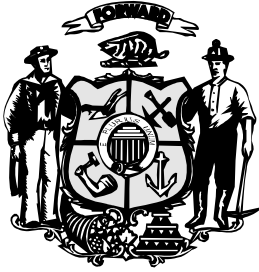
For purposes of appeal to circuit court, the Respondent in this matter is the Department of Health Services. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 1 West Wilson Street, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Milwaukee,  
Wisconsin, this 11th day of November, 2013

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\sDebra Bursinger  
Administrative Law Judge  
Division of Hearings and Appeals



**State of Wisconsin\DIVISION OF HEARINGS AND APPEALS**

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The preceding decision was sent to the following parties on November 11, 2013.

Ozaukee County Department of Social Services  
Division of Health Care Access and Accountability